IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.912 OF 2003.

Shripat Sakharam Mandavkar. ... Petitioner
Versus.
Swapnali Shripat Mandavkatr & anr. ... Respondents.

Shri S.R.Railkar for the Petitioner.

Ms.R.M.Gadhvi, A.P.P. for the Respondent-State.

CORAM : ABHAY S. OKA, J.

DATED : 27th June, 2005.

P.C.:

1. Heard Shri Railkar for the Petitioner. The Petitioner is the husband and Respondent No.1 is the wife in whose favour the learned Magistrate passed an order under section 125 of the Code of Criminal Procedure, 1973, granting maintenance at the rate of Rs.300/- per month. The said order has been confirmed in Revision field by the Petitioner.

2. Shri Railkar relied upon the evidence of Dr.Mrs.Joshi in support of the contention of the Petitioner that the Respondent No.1 after solemnization of marriage i.e. after 13th May 1994 was living in adultery. He relied upon an extract from a book by name "Taylor’s Principles and Practice on Medical Jurisprudence".

3. I have considered these submissions of the learned Counsel for the Petitioner. The Revisional Court has considered the evidence of Dr.Mrs.Joshi and has come to the conclusion that the evidence does not establish that the Respondent No.1 was living in adultery. The learned Magistrate has also considered the other evidence on record.

4. On consideration of the oral evidence on record, the Courts below have not accepted the case made out by the Petitioner. In this Petition under Article 227 of the Constitution of India, the findings which are recorded by the Courts below on consideration of evidence on record cannot be interfered with. Hence there is no merit in the petition. Petition is dismissed.

Judge.